

## Annex I

Directions of the Supreme Court in *Narmada Bachao Andolan Vs Union of India and others*, Writ Petition (C) NO. 319 OF 1994

### Directions

While issuing directions and disposing of this case, two conditions have to be kept in mind, (i) the completion of project at the earliest and (ii) ensuring compliance with conditions on which clearance of the project was given including completion of relief and rehabilitation work and taking of ameliorative and compensatory measures for environmental protection in compliance with the scheme framed by the Government thereby protecting the rights under Article 21 of the Constitution. Keeping these principles, in view, we issue the following directions.

- 1) Construction of the dam will continue as per the Award of the Tribunal.
- 2) As the Relief and Rehabilitation Sub-group has cleared the construction up to 90 meters, the same can be undertaken immediately. Further raising of the height will be only *pari passu* with the implementation of the relief and rehabilitation and on the clearance by the Relief and Rehabilitation Sub-group. The Relief and Rehabilitation Sub-group will give clearance of further construction after consulting the Grievances Redressal Authorities.
- 3) The Environment Sub-group under the Secretary, Ministry of Environment and Forests, Government of India will consider and give, at each stage of the construction of the dam, environment clearance before further construction beyond 90 meters can be undertaken.
- 4) The permission to raise the dam height beyond 90 meters will be given by the Narmada Control Authority, from time to time, after it obtains the above-mentioned clearances from the Relief and Rehabilitation Sub-group and Environment Sub-group.
- 5) The reports of the Grievances Redressal Authorities, and of Madhya Pradesh in particular, shows that there is a considerable slackness in the work of the identification of land, acquisition of suitable land and the consequent steps necessary to be taken to rehabilitate the project oustees. We direct the States of Madhya Pradesh, Maharashtra and Gujarat to implement the Award and give relief and rehabilitation to the oustees in terms of the packages offered by them and these States shall comply with any direction in this regard which is given either by the NCA or the Review Committee or the Grievances Redressal Authorities.
- 6) Even though there has been substantial compliance with the conditions imposed under the environment clearance the NCA and the Environment Sub-group will continue to monitor and ensure that all steps are taken not only to protect but to restore and improve the environment.

7) The NCA within four weeks from today draw up an Action Plan in relation to further construction and the relief and rehabilitation work to be undertaken. Such an Action Plan will fix a time frame so as to ensure relief and rehabilitation *pari passu* with the increase in the height of the dam. Each State shall abide by the terms of the action plan so prepared by the NCA and in the event of any dispute or difficulty arising, representation may be made to the Review Committee. However each State shall be bound to comply with the directions of the NCA with regard to the acquisition of land for the purpose of relief and rehabilitation to the extent and within the period specified by the NCA.

8) The Review Committee shall meet whenever required to do so in the event of there being any unresolved dispute on an issue which is before the NCA. In any event the Review Committee shall meet at least once in three months so as to oversee the progress of construction of the dam and implementation of the R&R programmes.

If for any reason serious differences in implementation of the Award arise and the same cannot be resolved in the Review Committee, the Committee may refer the same to the Prime Minister whose decision, in respect thereof, shall be final and binding on all concerned.

9) The Grievances Redressal Authorities will be at liberty, in case the need arises, to issue appropriate directions to the respective States for due implementation of the R&R programmes and in case of non-implementation of its directions, the GRAs will be at liberty to approach the Review Committee for appropriate orders.

10) Every endeavour shall be made to see that the project is completed as expeditiously as possible.

This and connected petitions are disposed off in the aforesaid terms.

..... CJI

.....J.

**[B.N. KIRPAL]**

New Delhi  
18 October 2000

## Annex 2

### Itinerary of the fact-finding team

- On 18 September 2002, visited Aggar resettlement colony in Gujarat, met with residents who had been displaced from Gaddher. FFT spoke on the telephone with Justice Majmudar of the SSP Gujarat GRA who directed us to get in touch with the NVDA.
- On 19 September 2002, met with residents of Jalsindi and neighboring villages in Jalsindi, observed the impacts of submergence, and visited a school organised by the tribal community.
- On 20 September 2002, met with residents of Dhomkedi and observed the impacts of submergence on homes and standing crops in Dhomkedi. FFT also observed the impacts of submergence on Sirsi village and the Hapeshwar temple, which suffered damage during submergence.
- On 21 September 2002, traveled in Nimad, visiting Hiladur, Ghelegaon, Chikhaldia, and Gopalpura resettlement sites; and held public meetings in Chikhaldia, Sirsi and Ekkalwara villages. In addition, those public hearings included residents from Chotabarda and Jetpur.
- On 22 September 2002, traveled to the Man dam submergence area, where we met with representatives from Jhiran, Khedi-Balwadi, Golpura, Gadhaghat, Badipura, Meenya Khedi, Guwadi, Rojya Baida, Jeerabad, Bhuwada Devipura, Khanpura Rehtiaon, Sanwi Khurd, and Sangwi Kala villages, viewed the impacts of submergence, and spoke with displaced people living in desperate conditions in 10x18 tin sheds.
- On 24 September 2002, traveled to Bhopal to meet with Mr. Pillai, SSP GRA Secretary for Madhya Pradesh, and with Mr. J.P. Vyas, Member Rehabilitation SSP, Narmada Valley Development Authority. □

## Annex 3

### Legal Basis for Housing Rights in International Human Rights Law

1. **The Universal Declaration of Human Rights (UDHR)** states in Article 25.1 that “Everyone has the right to an adequate standard of living adequate for the health and well-being of himself and his family, including food, clothing and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” .
2. **The International Covenant on Economic, Social and Cultural Rights (ICESCR)**. Accession by India on 10 April 1979. Article 11.1 of the ICESCR calls upon States Parties “ to recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international co-operation based on free consent.”
3. **The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**. Ratified by India on 3 December 1968. Article 5 (e) (iii) of CERD obliges States “ to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of .. the right to housing.
4. **The Convention on the Rights of the Child (CRC)**. Accession by India on 11 December 1992. Article 16.1 of the CRC states that: “No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, not to unlawful attacks on his or her honour and reputation.” Article 27.3 states that “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”
5. **The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**. Ratified by India on 9 July 1993. Article 14.2(h) states that: “States Parties shall undertake all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right ... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”
6. **Convention 107 of the International Labour Organisation** concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries. Ratified by India in 1958. Article 2(1), 12 (1) and 12(2) protect the land rights of tribal and indigenous populations.

Article 12 (1) states that “the populations concerned shall not be removed without their free consent from their habitual territories except in accordance with national laws and regulations for reasons relating to national security, or in the interest of national economic development or of the health of the said populations. Article 12(2). “When in such cases removal of these populations is necessary as an exceptional measure, they shall be provided with lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. In cases where chances of alternative employment exist and where the populations concerned prefer to have compensation in money or in kind, they shall be so compensated under appropriate guarantees. “

7. **UN Commission on Human Rights resolution 1993/77 entitled ‘Forced Evictions’** affirms that the “Practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing.” The Commission recognises that the practice of forced evictions involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and in inadequate housing and living conditions”.
8. **General Comment No. 4 (1991) “The right to adequate housing” of the UN Committee on Economic, Social and Cultural Rights.** The Committee states that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity”(Para 7). Flowing from this holistic conception of the right to housing the Committee has outlined seven basic contents of the right to adequate housing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy (Para 8). In this General Comment the Committee also states that “forced evictions are, prima facie, incompatible with the requirements of the ICESCR and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law.” (Para 18).
9. **General Comment no. 7 (1997) on “forced evictions” of the UN Committee on Economic, Social and Cultural Rights,** which lays down procedural conditions that need to be satisfied prior to evictions taking place, states that in any case evictions should not “result in rendering individuals homeless or vulnerable to the violations of other human rights..... ”
10. **UN Comprehensive human rights guidelines on development-based displacement (1997)** has stated that all persons who have been evicted should have a right to compensation which should include land and access to common property resources and should not be restricted to cash payments.
11. **UN Commission on Human Rights resolution 2000/13 and 2001/34 entitled “Women’s equal ownership of, access to and control over land and the equal rights to own property and to adequate housing”** reaffirmed that “forced relocation and forced evictions from home and land have a disproportionately severe impact on women and encourages governments to ensure that women have equal treatment in land and agrarian reforms as well as in resettlement schemes and in ownership of property and in adequate housing.” □

## Annex 4

### **Directions of the Court in Writ Petition (civil) no. 328 of 2002**

In the Supreme Court of India Civil Original Jurisdiction

Narmada Bachao Andolan vs. Union of India and Ors. ..

#### **Order**

The Grievance Redressal Authority having been put in place, there is no reason for this Court to interfere.

As far as the dispute raised in this petition is concerned, that is over and final with the earlier decision of this Court. In case an oustee or a person affected by the Project has any grievance, it is open to him to approach the Grievance Redressal Authority.

It is also contended that land for land has not been given. If there is any person so aggrieved or has a justifiable grievance, it is open to that person to approach the Grievance Redressal Authority, failing with this Court.

It is made clear that full assistance will be rendered by the Narmada Control Authority as well as the State Governments to the Grievance Redressal Authority in the discharge of their respective functions.

This writ petition is disposed of in the presence of

..... CJI

.....J.

**[K.G. BALAKRISHNAN]**

.....J.

**[ARIJIT PASAYAT]**

New Delhi

9 September 2002

## Annex 5

The findings and recommendations of the fact-finding team were sent to the Prime Minister of India on 22 November 2002. Copies were also sent to the following people.

- **Mr. L. K. Advani**, Deputy Prime Minister of India.
- **Mr. Narendra Modi**, Chief Minister of Gujarat.
- **Mr. Digvijay Singh**, Chief Minister of Madhya Pradesh.
- **Mr. Vilas Rao Deshmukh**, Chief Minister of Maharashtra.
- **Mr. R. Jeyasaleen**, Executive Member, Narmada Control Authority.
- **Mr. Gopal Reddy**, Chairperson R&R Sub-Group, Narmada Control Authority,
- **Mr. Jual Oram**, Minister for Tribal Affairs, Ministry of Tribal Affairs.
- **Mr. Arjun Charan Sethi**, Minister for Water Resources, Ministry of Water Resources.
- **Mr. T. R. Baalu**, Minister for Environment and Forest, Ministry of Environment and Forest.
- **Justice J. S. Verma**, Chairperson, National Human Rights Commission.
- **Mr. Juan Somavia**, Director General, International Labour Organisation.
- **Mr. Sergio Vieira de Mello**, United Nations High Commissioner for Human Rights.
- **Mr. Jaap Doek**, Chairperson, Committee on the Rights of the Child.
- **Ms. Virginia Bonoan Dandan**, Chairperson, Committee on Economic, Social and Cultural Rights.
- **Ms. Ayse Feride Acar**, Chairperson, Committee on the Elimination of Discrimination against Women.
- **Mr. Miloon Kothari**, Special Rapporteur on Adequate Housing, UN Commission on Human Rights.
- **Mr Rodolfo Stavenhagen**, Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous People, UN Commission on Human Rights.

## Annex 6

**Housing and Land Rights Network**  
**HABITAT INTERNATIONAL COALITION**



To,

C. Gopal Reddy,  
Chairman, R&R Sub-Group of NCA,  
Secretary, Ministry of Social Justice and Empowerment,  
Shastri Bhavan,  
New Delhi

8 March 2003

Subject: Status of Rehabilitation of the Oustees of the Sardar Sarovar Project

Dear Mr. Gopal Reddy,

On behalf of the Housing and Land Rights Network of Habitat International Coalition (HLRN-HIC), I would like to thank you for meeting us on 11 December 2002. The meeting gave us an opportunity to put forth our concerns regarding the rehabilitation of the oustees of the Sardar Sarovar Project.

On the basis of the HLRN-HIC fact-finding in September 2002, I reiterate that the height of the dam should not be raised beyond 95 m (current height), as the oustees at this dam height have not been fully rehabilitated and resettled in accordance with the NWDT Award.

At the meeting you had agreed to send us information on the issues we raised, after discussion in the R & R Sub-Group and with the State governments. I am sending you a list of the issues we had raised in our meeting. We would appreciate a response.

1. The Action Taken Report of Madhya Pradesh government claims that the people of Chikhaldia in Dhar district have been resettled, whereas when the HLRN-HIC fact-finding team had found that this was not correct.
2. The designated Chikhaldia rehabilitation site is likely to come under submergence. The authorities had asked the oustees of Chikhaldia to move to Gehalgoan temporarily. What is the current situation of the Chikhaldia oustees?
3. The Gehalgoan and Gopalpura rehabilitation sites were not ready for habitation.
4. Why was the Madhya Pradesh government allowed to differentiate between temporary and permanent submergence; in violation of the provisions of the NWDT Award?



5. What are the implications of the findings of the Task Force set up by the Maharashtra government?
6. Has R& R Sub-Group discussed with the Maharashtra government the measures required for resettling and rehabilitating the large number of people identified at 95 m dam height, by the Task Force, as yet to be rehabilitated?
7. The Maharashtra Grievance Redressal Authority had expressed reservation on the resettlement of project affected people up to 90-95ms the of the dam, why was the height of the dam then raised to 95m ?
8. What is the position of the R&R Sub-Group regarding ex-parte allotment of land and house-plots to the oustees?

As you had requested, I am enclosing the affidavit of the Maharashtra government to the Supreme Court in May 2002 and the Interim Report of the Maharashtra GRA to the Supreme Court in June 2002, along with a copy of the main findings of the HLRN-HIC visit to the valley in September 2002.

Lastly, we request the R&R Sub-Group to visit the submergence areas and the rehabilitation sites for first hand information on the status of rehabilitation and resettlement of the oustees. HLRN-HIC is willing to accompany the R&R Sub-Group to the valley to verify it's findings.

We look forward to hearing from you in response to our concerns.

Yours sincerely,

Shivani Bhardwaj  
Associate Coordinator  
South Asia Regional Program  
HLRN-HIC

## HIC-HLRN Publications

### Fact-finding Reports

#### **Impact of War and Forced Evictions on Urbanization in Turkey**

Violations of Housing Rights

*Fact-finding Report no. 1 (1996)*

HABITAT INTERNATIONAL COALITION (HIC)

#### **In Quest of Bhabrekar Nagar**

A report to enquire into demolitions in Mumbai, INDIA

*Fact-finding Report no. 2 (1997)*

HABITAT INTERNATIONAL COALITION (HIC)

#### **Fact-finding Mission to Kenya on the Right to Adequate Housing**

A report on slum conditions, evictions and landlessness

*Fact-finding Report no. 3 (2001)*

HIC-HLRN, SUB-SAHARAN REGIONAL PROGRAMME<sup>1</sup>

#### **Resettlement on Land of Bhutanese Refugees**

A report on new threats to repatriation

*Fact-finding Report no. 4 (2002)*

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP)

#### **Restructuring New Delhi's Urban Habitat: Building an Apartheid City?**

A report on the resettlement process of Delhi, INDIA

*Fact-finding Report no. 5 (2002)*

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP)<sup>2</sup>

#### **Rebuilding from the Ruins: Listening to the Voices from Gujarat and Restoring People's Rights to Housing, Livelihood and Life**

A report on ethnic conflict in Gujarat, INDIA

*Fact-finding Report no. 6 (2002)*

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP);

YOUTH FOR UNITY FOR VOLUNTARY ACTION (YUVA)<sup>3</sup>

#### **The Impact of the 2002 Submergence on Housing and Land Rights in the Narmada Valley: Report of a Fact-finding Mission to Sardar Sarovar and Man Dam Projects**

A report on housing and land rights violations and inadequate rehabilitation

*Fact-finding Report no. 7 (2003)*

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP)

### Research Reports and Training Manuals

#### **Trade, Investment, Finance and Human Rights**

Essential Documents

INTERNATIONAL NGO COMMITTEE ON HUMAN RIGHTS IN TRADE AND INVESTMENT (INCHRITI)

#### **Children and Right to Adequate Housing:**

##### **A Guide to International Legal Resources**

*Research Report and Training Manual (2002)*

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP) AND

CENTRE FOR CHILD RIGHTS (HAQ)

#### **Dispossessed: Land and Housing Rights in Tibet**

*Research Report (2002)*

TIBETAN CENTRE FOR HUMAN RIGHTS AND DEMOCRACY (TCHRD)<sup>4</sup>

<sup>1</sup> In collaboration with Human Rights Monitoring Group (HURIMOG)

<sup>2</sup> In cooperation with Sajha Manch, New Delhi.

<sup>3</sup> Mission conducted at the request of Citizen's Initiative, Ahmedabad.

<sup>4</sup> In collaboration with HIC-HLRN.

### **Community Action Planning: Processes – Ideas – Experiences**

Manual for human rights based slum upgradation (2002)

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP); YUVA; PDHRE

### **Housing and Land Rights of Nomadic Communities**

A research report on Nomadic communities in Rajasthan, INDIA

(forthcoming publication)

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP); AND MUKTIDHARA

### **Methodology for Monitoring the Human Right to Adequate Housing: The “Tool Kit”**

Indicator and benchmarks to assess realization and violations of the Right to Adequate Housing (forthcoming publication)

HIC-HLRN

### **Urgent Action: HLRN Guide to Practical Solidarity for Defending the Human Right to Adequate Housing**

Training Manual

HIC-HLRN, MIDDLE EAST/NORTH AFRICA (MENA) REGIONAL PROGRAMME

## **Reports to UN Bodies**

### **Child in Search of the State**

Parallel report to the India country report on the implementation of the Right to Housing as enshrined in the Convention on the Rights of the Child (1998)

HABITAT INTERNATIONAL COALITION (HIC); LAYA, HUMAN RIGHTS FOUNDATION (HRF) AND YOUTH UNITY FOR VOLUNTARY ACTION (YUVA)

### **Composite of Economic, Social and Cultural Rights Conditions of the Indigenous Palestinian People under Israel’s Jurisdiction and Control**

Joint parallel report to the UN Committee on Economic, Social and Cultural Rights (2001)

HIC-HLRN, MIDDLE EAST/NORTH AFRICA (MENA) REGIONAL PROGRAMME WITH SEVEN OTHER PALESTINIAN, ISRAELI AND INTERNATIONAL NGOS<sup>5</sup>

### **Implementation of the International Convention on the Rights of the Child: Israel Issues affecting the Indigenous Palestinian People under the State of Israel’s Jurisdiction and Control**

Joint parallel report to the UN Committee on the Rights of the Child (2002)

HIC-HLRN, MIDDLE EAST/NORTH AFRICA (MENA) REGIONAL PROGRAMME WITH THREE OTHER PALESTINIAN NGOS<sup>6</sup>

### **Human Right to Adequate Housing in India**

Joint parallel report to the UN Committee on Economic, Social and Cultural Rights (2002)

HIC-HLRN, SOUTH ASIA REGIONAL PROGRAMME (SARP) WITH INDIAN NGOS<sup>7</sup>.

<sup>5</sup> Adalah, the Legal Center for Arab Minority Rights in Israel; Association of Forty (Israel); Badil Resource Center for Palestinian Residence and Refugee Rights (Bethlehem); Boston University Civil Litigation Program (USA); LAW Society for the Protection of Human Rights and the Environment (Jerusalem); Palestinian Center for Human Rights (Gaza); World Organization against Torture (Geneva, Switzerland)

<sup>6</sup> Defence for Children International/Palestine; LAW Society for the Protection of Human Rights (Jerusalem) and Al Mezan Center for Human Rights (Gaza, Palestine).

<sup>7</sup> National Forum for Forest People and Forest Workers, Muktidhara, YUVA, Sajha Manch, Narmada Bachao Andolan and Kalpavriksh.

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# **The Impact of the 2002 Submergence on Housing and Land Rights in the Narmada Valley**

Report of a Fact-finding Mission to  
Sardar Sarovar and Man Dam Projects



South Asia Regional Programme  
Housing and Land Rights Network  
HABITAT INTERNATIONAL COALITION

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**FRONT INSIDE COVER**

## Abbreviations

<b>CRC</b>	Convention on the Rights of the Child
<b>FFT</b>	fact-finding team
<b>FIR</b>	First Information Report
<b>GRA</b>	Grievance Redressal Authority
<b>HIC</b>	Habitat International Coalition
<b>HLRN</b>	Housing and Land Rights Network
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICDS</b>	Integrated Child Development Scheme
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO</b>	International Labour Organisation
<b>NBA</b>	Narmada Bachao Andolan
<b>NCA</b>	Narmada Control Authority
<b>NHRC</b>	National Human Rights Commission
<b>NVDA</b>	Narmada Valley Development Authority
<b>NWDT Award</b>	Narmada Water Disputes Tribunal Award
<b>PAF</b>	project affected family
<b>R &amp; R Sub-Group</b>	Rehabilitation and Resettlement Sub-Group of the Narmada Control Authority
<b>SC/ST</b>	Schedule Caste / Schedule Tribes
<b>SSP</b>	Sardar Sarovar Project

**BACK INSIDE COVER**